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ous user by one has caused interference with the rights of the other. See *National Telephone Co. v. Baker*, [1893] 2 Ch. 186, 199.

**TORTS — UNUSUAL CASES OF TORT LIABILITY — PRICE CUTTING AS A TORT.** — A department store owner, for the purpose of injuring a selling agent in his business, advertised with fraudulent representations sewing machines at half price. *Held*, that the defendant's conduct is actionable as a malicious injury to the plaintiff's business under the guise of simulated competition. *Boggs v. Duncan-Schell Furniture Co.*, 143 N. W. 482 (Ia.).

For a discussion of price cutting as a tort, see NOTES, p. 374.

**TRADE MARKS AND TRADE NAMES — PROTECTION APART FROM STATUTE — TERRITORIAL LIMITATION ON TECHNICAL TRADE MARK.** — The plaintiff had established a market for flour in certain states under a technical trade mark. The defendant, afterward, in good faith, used the same trade mark in territory in which the plaintiff's flour is yet unknown. The plaintiff seeks to enjoin the further use of the mark in this territory. *Held*, that an injunction will not be granted. *Hanover Star Milling Co. v. Allen & Wheeler Co.*, 208 Fed. 513 (U. S. C. C. A., 7th Cir.).

A technical trade mark, as distinguished from a trade name, is purely arbitrary with reference to the article to which attached, and not simply indicative of its class, description, or place of manufacture, or of the manufacturer's or vendor's name. See HOPKINS ON TRADE MARKS, § 3. Certain cases not too well considered appear to hold that a right to such a mark acquired in one locality may be enforced in any other locality, regardless of the extent of actual good will attaching to the mark. *Derringer v. Plate*, 29 Cal. 292; *Kidd v. Johnson*, 100 U. S. 617; *Hygeia Distilled Water Co. v. Consolidated Ice Co.*, 144 Fed. 139. It is submitted, however, that the principal case is sound in reasoning that protection is extended a trade mark in order to guard the good will with which the mark is identified, rather than the mark alone; and that where a plaintiff's wares are unknown he has nothing to protect. Furthermore, this is the doctrine applied to trade names, and there seems no reason for distinguishing trade marks from trade names in this connection. See *Briggs v. National Wafer Co.*, 102 N. E. 87 (Mass.), discussed in 27 HARV. L. REV. 190.

**TRUSTS — NATURE OF THE TRUST RELATION — DEPOSIT IN BANK FOR SPECIFIC PURPOSE.** — The plaintiff administrator deposited funds in a bank, and took the following receipt: "To be held until vouchers are received from heirs. Then same to be forwarded by bank draft." The bank having failed, he now sues for the money as a trust fund. *Held*, that he may recover. *Carlson v. Kies*, 134 Pac. 808 (Supreme Wash.).

The principal case illustrates the close questions of fact that arise in distinguishing between a general and a special deposit. The decision seems hard to support, inasmuch as banking convenience requires every deposit to be considered general unless the parties expressly contracted that the money be held separate as a trust *res*. *Nichols v. State*, 46 Neb. 715, 65 N. W. 774. *In re Mutual Building Soc.*, Fed. Cas. No. 9,976. Nothing appears in the receipt to clearly negative the bank's presumptive right to mingle. On the contrary, it is a necessary inference from the expressed intention that the money should ultimately be forwarded by bank draft. See 12 HARV. L. REV. 221; 27 HARV. L. REV. 191.

**WITNESSES — PRIVILEGED COMMUNICATIONS — HUSBAND AND WIFE: LETTER RECEIVED AFTER HUSBAND'S DEATH NOT PRIVILEGED UNDER STATUTE PROTECTING COMMUNICATIONS DURING MARRIAGE.** — In a suit on an insurance

policy the defendant company sets up as a defense that the deceased committed suicide. Papers written by deceased to his wife and found by her after his death, in which he gave directions testamentary in nature, were admitted over the plaintiff's objection that they were confidential communications between husband and wife. *Held*, that they were properly admitted. *Whitford v. North State Life Ins. Co.*, 79 S. E. 501 (N. C.).

The principal case is based on a statute that speaks of "communications made by one to the other during marriage," practically the statement of the common-law rule. The interpretation that a communication is not made during marriage because it does not become known to the other party till after the death of the sender seems a narrow construction of the rule, possible only in a court with a decided dislike for this privilege. The fact that the reason often given for the rule, namely, the protection of the marriage relationship (see 4 WIGMORE, EVIDENCE, § 2332), is not present in the principal case, cannot be appealed to in support of denying the privilege, for the attempt to use this as a test would carry one too far in breaking down the privilege. The case is interesting as it seems to be one of first impression.

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## BOOK REVIEWS.

CASES AND OPINIONS ON INTERNATIONAL LAW AND VARIOUS POINTS OF ENGLISH LAW CONNECTED THEREWITH. Collected and Digested from English and Foreign Reports, Official Documents and other Sources, with Notes containing the Views of the Text-Writers on the Topics referred to, Supplementary Cases, Treaties, and Statutes.

PART II. WAR.

PART III. NEUTRALITY.

By Pitt Cobbett. London: Stevens and Haynes. 1913. pp. xxxii-547.

The above comprehensive title-page is descriptive of the book. This title is condensed on the outside cover to Leading Cases on International Law, Pitt Cobbett, Part II. War, Part III. Neutrality. Third Edition.

The treatment of Parts II and III relating to war and neutrality is distinctly superior to that of Part I, relating to peace. (See review, 23 HARV. L. REV. 653.) Not merely is the general treatment superior, but the cases better illustrate the principles discussed and are generally more modern. The book shows clearly the progress toward conventionalization of international law, particularly as relates to war and neutrality. The issue of the book was delayed by the uncertainty of the action of Great Britain on the International Prize Court Convention of 1907 and the Declaration of London of 1909, action which is still uncertain. Many cases which were regarded as authoritative at the end of the nineteenth century have become in the early days of the twentieth century merely of historical interest, because of the general acceptance of conventions. There are also many new names among the cited cases. The Spanish-American, South African, and Russo-Japanese wars furnished new precedents. Indeed the book opens with a presentation of the controversy between Russia and Japan in 1904 in regard to the necessity of notice prior to opening of hostilities. The Hague Convention, 1907, No. 3, relative to the Opening of Hostilities, Article I, is discussed as if translated "the Contracting Powers recognize that hostilities between them *ought not to commence* without a previous and explicit warning," etc. In the appendix where the Convention is given, the more approved translation is followed, viz.: "that hostilities *must not commence*," etc.